



REQUEST FOR PROPOSALS

SOLICITATION NO. DHMH OPASS 12-10111

Issue Date: July 19, 2012

TECHNICAL AND ADVISORY SUPPORT FOR COMMUNITY SERVICES REIMBURSEMENT RATE COMMISSION (CSRRC)

NOTICE

Prospective Offerors that have received this document from the Department of Health and Mental Hygiene's website or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that addenda to the RFP or other communications can be sent to them.

Minority Business Enterprises Are Encouraged to Respond to this Solicitation

STATE OF MARYLAND
NOTICE TO OFFERORS/CONTRACTORS

In order to help us improve the quality of State solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to respond on this Contract, please fax this completed form to: (410) 333-5958 to the attention of the Procurement Officer.

Title: TECHNICAL AND ADVISORY SUPPORT FOR Community Services Reimbursement Rate
Commission (CSRRC)

Solicitation No: 12-10111

1. If you have responded with a "no response," please indicate the reason(s) below:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the bid/proposals is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- ☐ Prior State of Maryland Contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- ☐ Payment schedule too slow.
- ☐ Other: _____

2. If you have submitted a proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Attach additional pages as needed.).

REMARKS:

Offeror Name: _____ Date: _____

Contact Person: _____ Phone (____) ____ - _____

Address: _____

**STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

KEY INFORMATION SUMMARY SHEET

Request for Proposals: **TECHNICAL AND ADVISORY SUPPORT
FOR COMMUNITY SERVICES REIMBURSEMENT
RATE COMMISSION (CSRRC)**

Solicitation Number: **DHMH OPASS – 12-10111**

Issue Date: **July 19, 2012**

RFP Issuing Office: **Maryland Department of Health and Mental Hygiene**

Procurement Officer: **Sharon R. Gambrill, CPPB
201 W. Preston St., Room 416B
Baltimore, MD 21201
Phone: (410) 767-5816 Fax: (410) 333-5958
E-mail: gambrills@dhmh.state.md.us**

Contract Officer: **John Gullucci (for DHMH informal purposes only)
JGullucci@dhmh.state.md.us**

Contract Monitor: **Jillian Aldebron
Community Services Reimbursement Rate Commission
201 W. Preston St.
Baltimore, MD 21201
Phone: (301) 270-6999
E-mail: aldebron@gmail.com**

Proposals are to be sent to: **Maryland Department of Health and Mental Hygiene
Sharon Gambrill, Acting Director, Office of Procurement
and Support Services
Maryland Dept. Of Health and Mental Hygiene
201 W. Preston St. 4th Floor
Baltimore, MD 21201**

Pre-Proposal Conference: **July 31, 2012 at 9:30 a.m. Local Time
DHMH 201 W Preston St, Conference Room L-4
Baltimore, Maryland 21201**

Closing Date and Time: **August 9, 2012 at 1:00 p.m. Local Time**

MBE Subcontracting Goal: **0 %**

Table of Contents

SECTION 1 - GENERAL INFORMATION.....	6
1.1 SUMMARY STATEMENT.....	6
1.2 ABBREVIATIONS AND DEFINITIONS.....	6
1.3 CONTRACT TYPE.....	7
1.4 CONTRACT DURATION.....	7
1.5 PROCUREMENT OFFICER.....	8
1.6 CONTRACT MONITOR.....	8
1.7 PRE-PROPOSAL CONFERENCE.....	8
1.8 eMARYLANDMARKETPLACE.....	8
1.9 QUESTIONS.....	9
1.10 PROPOSALS DUE (CLOSING) - DATE AND TIME.....	9
1.11 DURATION OF OFFER.....	10
1.12 REVISIONS TO THE RFP.....	10
1.13 CANCELLATIONS; DISCUSSIONS.....	10
1.14 ORAL PRESENTATION.....	10
1.15 INCURRED EXPENSES.....	10
1.16 ECONOMY OF PREPARATION.....	11
1.17 PROTESTS/DISPUTES.....	11
1.18 MULTIPLE OR ALTERNATE PROPOSALS.....	11
1.19 PUBLIC INFORMATION ACT NOTICE.....	11
1.20 OFFEROR RESPONSIBILITIES.....	11
1.21 MANDATORY CONTRACTUAL TERMS.....	11
1.22 BID/PROPOSAL AFFIDAVIT.....	12
1.23 CONTRACT AFFIDAVIT.....	12
1.24 ARREARAGES.....	12
1.25 PROCUREMENT METHOD.....	12
1.26 VERIFICATION OF REGISTRATION AND TAX PAYMENT.....	12
1.27 FALSE STATEMENTS.....	12
1.28 PAYMENTS BY ELECTRONIC FUNDS TRANSFER.....	13
1.29 LIVING WAGE REQUIREMENTS.....	13
1.30 PROMPT PAYMENT POLICY.....	14
1.31 FEDERAL FUNDING ACKNOWLEDGEMENT.....	14
1.32 CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE.....	14
1.33 ELECTRONIC PROCUREMENTS AUTHORIZED.....	14
1.34 NON-DISCLOSURE AGREEMENT.....	16
SECTION 2 – OFFEROR MINIMUM QUALIFICATIONS	17
SECTION 3 – SCOPE OF WORK	18
3.1 PURPOSE.....	18
3.2 SCOPE OF WORK - REQUIREMENTS.....	18
3.3 SECURITY REQUIREMENTS.....	20
3.4 INVOICING AND PAYMENT TYPE.....	21
3.5 INSURANCE REQUIREMENTS.....	22
3.6 PROBLEM ESCALATION PROCEDURE.....	23
3.7 SUBSTITUTION OF PERSONNEL.....	24
SECTION 4 – PROPOSAL FORMAT.....	28
4.1 TWO PART SUBMISSION.....	28
4.2 PROPOSALS.....	28
4.3 DELIVERY.....	28
4.4 VOLUME I – TECHNICAL PROPOSAL.....	29
4.5 VOLUME II - FINANCIAL PROPOSAL.....	34
SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCEDURE	35

5.1	EVALUATION CRITERIA	35
5.2	TECHNICAL CRITERIA	35
5.3	FINANCIAL CRITERIA	35
5.4	RECIPROCAL PREFERENCE	35
5.5	SELECTION PROCEDURES	36
SECTION 6 - ATTACHMENTS		38
ATTACHMENT A – CONTRACT		39
ATTACHMENT B – BID/PROPOSAL AFFIDAVIT		53
ATTACHMENT C – CONTRACT AFFIDAVIT		58
ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM		62
ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS & FINANCIAL PROPOSAL FORM		63
ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS		65
ATTACHMENT G-1 - MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT		68
ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE		70
ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD)		71
ATTACHMENT X – SAMPLE WHITE PAPER		76

SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

1.1.1 The Maryland Department of Health and Mental Hygiene (DHMH or the Department), Behavioral Health & Disabilities, is issuing this Request for Proposals (RFP) to provide the Community Services Reimbursement Rate Commission (CSRRC) with technical and advisory support related to reimbursement of community-based mental health and developmental disability service providers that will enable it to fulfill its statutory mandate as set forth in Md. Code Ann. Health-Gen. Article, Title §13-801 et seq.

1.1.2 It is the State's intention to obtain services, as specified in this RFP, from a Contract between the successful Offeror and the State.

1.1.3 The Department intends to make a single award as a result of this RFP to the Offeror whose proposal is deemed to be the most advantageous to the State.

1.1.4 Offerors, either directly or through their subcontractor(s), must be able to provide all services and meet all of the requirements requested in this solicitation.

1.2 Abbreviations and Definitions

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us.
- b. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of **Attachment A**.
- c. **Contract Monitor (CM)** – The State representative for this project who is primarily responsible for contract administration functions, including issuing written direction, invoice approval, monitoring this project to ensure compliance with the terms and conditions of the Contract, monitoring MBE compliance, and achieving on budget, on time, and within scope completion of the project.
- d. **Contract Officer** – Office of Procurement and Support Services (OPASS) assigned individual to facilitate the procurement process.
- e. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- f. **CSRRC** – Community Services Reimbursement Rate Commission.
- g. **DDA** – Developmental Disability Administration.
- h. **DHMH or the Department** – Maryland Department of Health and Mental Hygiene.
- i. **LAN** – Local Area Network.

- j. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland. Unless otherwise specified, all stated times shall be Local Time, even if not expressly designated as such.
- k. **MHA** – Mental Hygiene Administration.
- l. **Minority Business Enterprise (MBE)** – any legal entity certified as defined at COMAR 21.01.02.01B(54) which is certified by the Maryland Department of Transportation under COMAR 21.11.03.
- m. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 5:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov – keyword: State Holidays.
- n. **Notice to Proceed** – Letter from the Contract Monitor to the Contractor stating the date the Contractor can begin work subject to the conditions of the Contract.
- o. **Offeror** – An entity that submits a proposal in response to this RFP.
- p. **Procurement Coordinator** – The State representative designated by the Procurement Officer to perform certain duties related to this solicitation are which are expressly set forth herein.
- q. **Procurement Officer** – The State representative for the resulting Contract. The Procurement Officer is responsible for the Contract and is the only State representative who can authorize changes to the Contract. DHMH may change the Procurement Officer at any time by written notice to the Contractor.
- r. **Request for Proposals (RFP)** – This Request for Proposals issued by the Maryland Department of Health and Mental Hygiene, Behavioral Health & Disabilities, Solicitation Number OPASS-12-10111 dated July 17, 2012, including any addenda.
- s. **State** – The State of Maryland.
- t. **WAN** – Wide Area Network.

1.3 Contract Type

The Contract resulting from this RFP shall be a firm fixed price contract as defined at COMAR 21.06.03.02A(1).

1.4 Contract Duration

The Contract resulting from this RFP shall be for a period of three years beginning on or about October 1, 2012 and ending September 30, 2015. The Contractor shall provide services upon receipt of a Notice to Proceed from the Contract Monitor.

1.5 Procurement Officer

The sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Sharon R. Gambrill, CPPB
Maryland Department of Health and Mental Hygiene
Office of Procurement and Support Services
201 West Preston Street, Room 416B, Baltimore, Maryland 21201
Phone: (410) 767-5816 - Fax: (410) 333-5958
E-mail: gambrills@dhmh.state.md.us

DHMH may change the Procurement Officer at any time by written notice.

1.6 Contract Monitor

The Contract Monitor is:

Jillian Aldebron
Maryland Department of Health and Mental Hygiene
Community Services Reimbursement Rate Commission
201 W. Preston St., Baltimore, MD 21201
Phone: (301) 270-6999 e-mail: aldebron@gmail.com

DHMH may change the Contract Monitor at any time by written notice.

1.7 Pre-Proposal Conference

A Pre-Proposal Conference (Conference) will be held on July 31, 2012 beginning at 9:30 a.m. Local Time, at DHMH, 201 W Preston St, Baltimore, MD 21201 Conference Room L-4. Attendance at the conference is not mandatory, but all interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

The Conference will be summarized. As promptly as is feasible, subsequent to the conference, a summary of the Conference and all questions and answers known at that time will be distributed to all prospective Offerors known to have received a copy of this RFP. This summary, as well as the questions and answers, will also be posted on eMaryland Marketplace.

In order to assure adequate seating and other accommodations at the Conference, please mail, e-mail, or fax the Pre-Proposal Conference Response Form to the attention of the Contract Officer no later than 4:00 p.m. Local Time on July 30, 2012. The Pre-Proposal Conference Response Form is included as **Attachment E** to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please notify the Contract Officer no later than July 30, 2012. DHMH will make a reasonable effort to provide such special accommodation.

1.8 eMarylandMarketplace

Each Offeror must indicate its eMaryland Marketplace (eMM) vendor number in the Transmittal Letter (cover letter) submitted at the time of its Technical Proposal submission to this RFP.

eMM is an electronic commerce portal administered by the Maryland Department of General Services.

In addition to using the DHMH website

<http://www.dhmv.maryland.gov/opass/SitePages/Home.aspx> and possibly other means for transmitting the RFP and associated materials, summary of the Conference, Offeror questions and Department responses, addenda, and other solicitation related information will be provided via eMM.

In order to receive a contract award, a vendor must be registered on eMM. Registration is free. Go to <https://emaryland.buyspeed.com/bsa/login.jsp>, click on "Register" to begin the process, and then follow the prompts.

1.9 Questions

Written questions from prospective Offerors will be accepted by the Contract Officer prior to the Conference. If possible and appropriate, such questions will be answered at the Conference. (No substantive question will be answered prior to the Conference.) Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Contract Officer with a copy to the Contract Monitor. Questions, both oral and written, will also be accepted from prospective Offerors attending the Conference. If possible and appropriate, these questions will be answered at the Conference.

Questions will also be accepted subsequent to the Conference and should be submitted to the Contract Officer with a copy to the Contract Monitor in a timely manner prior to the proposal due date. Questions are requested to be submitted at least five (5) days prior to the proposal due date. Time permitting, answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors that are known to have received a copy of the RFP.

1.10 Proposals Due (Closing) - Date and Time

Proposals, in the number and form set forth in section 4.2 "Proposals" must be received by the Procurement Officer at the address listed on the Key Information Summary Sheet no later than 1:00 p.m. Local Time on August 9, 2012 in order to be considered.

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date and time listed in this section will not be considered.

Proposals may be modified or withdrawn by written notice to the Procurement Officer before the time and date set forth in this section for receipt of proposals.

Proposals may not be submitted by e-mail or facsimile.

1.11 Duration of Offer

Proposals submitted in response to this RFP are irrevocable for 120 days following the closing date of proposals or of Best and Final Offers (BAFOs), if requested, whichever is later. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.12 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, the Department shall endeavor to provide addenda to all prospective Offerors that were sent this RFP or which are otherwise known by the Procurement Officer to have obtained this RFP. In addition, addenda to the RFP will be posted on the DHMH Current Procurements web page and through eMM. It remains the responsibility of all prospective Offerors to check all applicable websites for any addenda issues prior to the submission of proposals. Addenda made after the due date for proposals will be sent only to those Offerors that submitted a timely proposal.

Acknowledgment of the receipt of all addenda to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal. Acknowledgement of the receipt of addenda to the RFP issued after the proposal due date shall be in the manner specified in the addendum notice. Failure to acknowledge receipt of an addendum does not relieve the Offeror from complying with the terms, additions, deletions, or corrections set forth in the addendum.

1.13 Cancellations; Discussions

The State reserves the right to cancel this RFP, to accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit the cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to award a Contract based upon the written proposals received without discussions or negotiations.

1.14 Oral Presentation

Offerors may be required to make oral presentations to State representatives. Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically, oral presentations occur approximately two (2) weeks after the proposal due date.

1.15 Incurred Expenses

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities related to this solicitation.

1.16 Economy of Preparation

Proposals should be prepared simply and economically and provide a straightforward and concise description of the Offeror's proposals to meet the requirements of this RFP.

1.17 Protests/Disputes

Any protest or dispute related respectively to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

1.18 Multiple or Alternate Proposals

Multiple proposals and alternate proposals will not be accepted.

1.19 Public Information Act Notice

An Offeror should give specific attention to the clear identification of those portions of its proposal that it considers confidential and/or proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6. (see section 4.4.3.2 "Claim of Confidentiality"). This confidential and/or proprietary information should be identified by page and section number and placed after Title Page and before the Table of Contents.

1.20 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the proposal must be included in the Offeror's proposal. Additional information regarding MBE subcontractors is provided in section 1.24 "Minority Business Enterprise Goals." If an Offeror that seeks to perform or provide the services required by this RFP is a subsidiary of another entity, all information submitted by the Offeror, such as, but not limited to, references and financial reports shall pertain exclusively to the Offeror unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms and conditions of this RFP and the Contract, attached herein as **Attachment A. Changes to the solicitation or Contract made by the Offeror may result in rejection of the Offeror's proposal.**

1.22 Bid/Proposal Affidavit

A proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Attachment B of this RFP.

1.23 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included as **Attachment C** of this RFP. This Affidavit must be provided within five (5) business days of notification of proposed Contract award. However, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

1.24 Arrearages

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become in arrears during the term of the Contract if selected for Contract award.

1.25 Procurement Method

This Contract will be awarded in accordance with the Competitive Sealed Proposals method under COMAR 21.05.03.

1.26 Verification of Registration and Tax Payment

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation (SDAT). SDAT is located at State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. The SDAT website is <http://www.dat.state.md.us/sdatweb/datanote.html>.

It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals. An Offeror's failure to complete registration SDAT may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.27 False Statements

Offerors are advised that Md. Ann. Code, State Finance and Procurement Article, §11-205.1 provides as follows:

1.27.1 In connection with a procurement contract a person may not willfully:

- (a) Falsify, conceal, or suppress a material fact by any scheme or device;
- (b) Make a false or fraudulent statement or representation of a material fact; or

- (c) Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- 1.27.2 A person may not aid or conspire with another person to commit an act under subsection (1) of this section.
- 1.27.3 A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

1.28 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer (EFT) unless the State Comptroller's Office grants an exemption. Payment by EFT is mandatory for contracts exceeding \$100,000. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form, must include the business identification information as stated on the form, and must include the reason for the exemption. The COT/GAD X-10 form may be downloaded from the Comptroller's website at:
<http://compnet.comp.state.md.us/gad/pdf/GADX-10.pdf>.

1.29 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Md. Code Ann., State Finance and Procurement Article, Title 18. Additional information regarding the State's living wage requirement is contained in **Attachment G**. Offerors submitting Financial Proposals of \$100,000 or more must complete and submit the Maryland Living Wage Requirements Affidavit (**Attachment G-1**) with their proposals. If an Offeror fails to complete and submit the required documentation, the State may determine an Offeror to be not responsible under State law.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier area. The specific living wage rate is determined by whether a majority of services take place in a Tier 1 Area or Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102(d) of the State Finance and Procurement Article shall assign the tier based upon where the recipients of the services are located.

The Contract resulting from this solicitation will be determined to be a Tier 1 Contract or a Tier 2 Contract depending on the location(s) from which the Contractor provides 50% or more of the services. The Offeror must identify in its Technical Proposal the location(s) from which services will be provided.

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 1 jurisdiction(s) the Contract will be a Tier 1 Contract.

- If the Contractor provides 50% or more of the services from a location(s) in a Tier 2 jurisdiction(s), the Contract will be a Tier 2 Contract.

If the Contractor provides more than 50% of the services from an out-of-State location, then the Contract will be deemed to be a Tier 1 contract. The Offeror must identify in its Technical Proposal the location(s) from which 50% or more of the Contract services will be provided.

Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

1.30 Prompt Payment Policy

This procurement and the Contract(s) to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs (GOMA) and dated August 1, 2008. Promulgated pursuant to Md. Code Ann., State Finance and Procurement Article, §§ 11-201, 13-205(a), and Title 14, Subtitle 3 and COMAR 21.01.01.03 and 21.11.03.01, the Directive seeks to ensure the prompt payment of all subcontractors on non-construction procurement contracts. The Contractor must comply with the prompt payment requirements as outlined in the Contract, section 31 "Prompt Payment." (See **Attachment A**). Additional information is available on GOMA's website at:
http://www.mdminoritybusiness.com/documents/PROMPTPAYMENTFAQs_000.pdf

1.31 Federal Funding Acknowledgement

- 1.31.1 There ☐ are) ☒ are not) programmatic conditions that apply to this Contract, regardless of the type of funding.
- 1.31.2 This Contract ☐ does) ☒ does not) contain federal funds.

1.32 Conflict of Interest Affidavit and Disclosure

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Contractor's personnel and each of the participating subcontractor personnel shall be required to complete agreements such as **Attachment I** Conflict of Interest Affidavit and Disclosure. For policies and procedures applying specifically to Conflict of Interests, the Contract is governed by COMAR 21.05.08.08. Offerors shall complete and sign the Conflict of Interest Affidavit and Disclosure and submit it with their proposals.

1.33 Electronic Procurements Authorized

- A. Under COMAR 21.03.05, unless otherwise prohibited by law, DHMH may conduct procurement transactions by electronic means, including the solicitation, bidding, award, execution, and administration of a contract, as provided in Md. Code Ann., Maryland Uniform Electronic Transactions Act, Commercial Law Article, Title 21.

- B. Participation in the solicitation process on a procurement contract for which electronic means has been authorized shall constitute consent by the bidder/offeror to conduct by electronic means all elements of the procurement of that Contract which are specifically authorized under the solicitation or the Contract.
- C. “Electronic means” refers to exchanges or communications using electronic, digital, magnetic, wireless, optical, electromagnetic, or other means of electronically conducting transactions. Electronic means includes facsimile, e-mail, internet-based communications, electronic funds transfer, specific electronic bidding platforms (e.g., eMarylandMarketplace.com), and electronic data interchange.
- D. In addition to specific electronic transactions specifically authorized in other sections of this solicitation (e.g., § 1.29 “Payments by Electronic Funds Transfer”) and subject to the exclusions noted in section E of this subsection, the following transactions are authorized to be conducted by electronic means on the terms described:
 - 1. The Procurement Officer may conduct the procurement using eMM, e-mail or facsimile to issue:
 - (a) the solicitation (e.g., the RFP or the IFB);
 - (b) any amendments;
 - (c) pre-proposal conference documents;
 - (d) questions and responses;
 - (e) communications regarding the solicitation or proposal to any Offeror or potential Offeror including requests for clarification, explanation, or removal of elements of an Offeror’s proposal deemed not acceptable;
 - (f) notices of award selection or non-selection; and
 - (g) the Procurement Officer’s decision on any bid protest or Contract claim.
 - 2. An Offeror or potential Offeror may use e-mail or facsimile to:
 - (a) ask questions regarding the solicitation;
 - (b) reply to any material received from the Procurement Officer by electronic means that includes a Procurement Officer’s request or direction to reply by e-mail or facsimile, but only on the terms specifically approved and directed by the Procurement Officer;
 - (c) request a debriefing; or
 - (d) submit a “No Bid Response” to the solicitation.
 - 3. The Procurement Officer, the State’s Contract Monitor and the Contractor may conduct day-to-day Contract administration, except as outlined in section E of this subsection utilizing e-mail, facsimile, or other electronic means if authorized by the Procurement Officer or Contract Monitor.
- E. The following transactions related to this procurement and any Contract awarded pursuant to it are *not authorized* to be conducted by electronic means:
 - 1. submission of initial bids or proposals;
 - 2. filing of bid protests;
 - 3. filing of Contract claims;

4. submission of documents determined by DHMH to require original signatures (e.g., Contract execution, Contract modifications, etc); or
 5. any transaction, submission, or communication where the Procurement Officer has specifically directed that a response from the Contractor, Bidder or Offeror be provided in writing or hard copy.
- F. Any facsimile or electronic mail transmission is only authorized to the facsimile numbers or e-mail addresses for the identified person as provided in the solicitation, the Contract, or in the direction from the Procurement Officer or Contract Monitor.

1.34 Non-Disclosure Agreement

All Offerors are advised that this solicitation and any resultant Contract(s) are subject to the terms of the Non-Disclosure Agreement (NDA) contained in this solicitation as **Attachment K**. This Agreement must be provided within five (5) business days of notification of proposed Contract award, however, to expedite processing, it is suggested that this document be completed and submitted with the Technical Proposal.

The remainder of this page is intentionally left blank.

SECTION 2 – OFFEROR MINIMUM QUALIFICATIONS

The Offeror must clearly state and demonstrate that it satisfies the stated experience qualifications and provide evidence thereof. The primary evidence shall be in the form of a self-certification stated in the Technical Proposal. The references submitted in response to RFP Section 4.4.3.6 shall be used to validate the self-certification.

Experience of key personnel assigned to this contract may be used to satisfy the experience requirements. Please provide this information in for form or a resume.

The minimum experience requirements for this procurement are:

- Three years of experience within the past 5 years conducting analyses of economic sectors using methodologies that include financial and social metrics.
- Three years of experience within the past 5 years analyzing financial statements, cost reports, federal tax submissions, wage data and other relevant information to identify trends and evaluate the viability of a business entity or business model.
- Three years of experience within the past 5 years designing, conducting, and analyzing surveys to assess the performance of individual entities and of entire economic sectors.
- One year of experience within the past 5 years working with health care databases and health care payment systems, preferably those in use and proposed by MHA and DDA.

The remainder of this page is intentionally left blank.

SECTION 3 – SCOPE OF WORK

3.1 Purpose

The State is issuing this solicitation for the purposes outlined in section 1.1 “Summary Statement” of this RFP.

3.2 Scope of Work - Requirements

3.2.1 The Contractor shall:

- 1) Develop and submit an annual work plan (based on the work plan submitted as part of the technical proposal) to the CSRRC for approval for each year of the contract. Dates and deliverables approved in the work plan are deliverable dates for purposes of contract compliance.
- 2) Staff and facilitate the technical advisory committee meetings of the CSRRC and the technical advisory groups (TAGs). There will be eighteen (18) meetings during the term of this contract.
- 3) Advise the CSRRC, in accordance with the schedule in the annual work plan, on the selection of a methodology to establish a weighted average cost structure of community-based providers of developmental disability and mental health services that will serve as the basis for rates paid by DDA and MHA, and develop, refine, and implement the selected methodology;
- 4) Advise the CSRRC, in accordance with the schedule in the annual work plan, on the establishment of a methodology to assess the financial viability of providers, and develop, refine, and implement the selected methodology;
- 5) Review and analyze, in accordance with the schedule in the annual work plan, provider financial and wage data collected by DDA, MHA, and other sources to determine the weighted average cost structure of providers, financial health of providers, wage trends and comparability with public service employees in similar positions, relative performance of developmental disability service providers, and other analyses as required by the CSRRC;
- 6) Provide to the CSRRC, in accordance with the schedule in the annual work plan, modifications to wage and financial cost surveys undertaken by DDA and MHA;
- 7) Write and submit to the CSRRC six (6) technical issue or white papers on the issues identified in the CSRRC statute, Md. Code Ann. Health-Gen. Article, Title § 13-801 et seq., and/or as assigned by the CSRRC (see item #1 above). The technical/white papers may cover the following:
 - a) The weighted average cost structure of developmental disability and mental health service providers, with methodology and rationale;
 - b) The level of and changes in wages paid by providers to direct support workers, including the source of revenue for wages paid by providers;
 - c) The ability of providers to operate on a solvent basis in the delivery of services and the impact of the annual update factor on providers;
 - d) The incentives and disincentives incorporated in the rate setting methodologies used and proposed by DDA and MHA;

- e) How incentives to provide quality care can be built into a rate setting methodology;
 - f) The effect of regulatory changes on the costs of providers and whether the rates have been adjusted to provide for any increased costs associated with the regulatory changes; and
 - g) Other rate system issues deemed appropriate by the CSRRC.
- 8) Provide as necessary on an ongoing basis advice and recommendations to the CSRRC on matters addressed in Md. Code Ann. Health-Gen. Article, Title § 13-801 et seq.;
- 9) Evaluate and advise the CSRRC on relevant regulations and rates proposed by DDA and MHA;
- 10) Review the data reported in DDA annual cost reports and other relevant sources, as necessary, and use these to help the CSRRC to develop relative performance measures of providers;
- 11) Prepare an annual report to the Secretary, Governor and General Assembly and submit to the CSRRC for approval based on the schedule established in the annual work plan;
- 12) Respond in a timely manner to payment system inquiries from the CSRRC, public officials, legislative staff, executive branch staff, and the general public.
- 13) Provide project proposals, updates, and supports as requested by the CSRRC in accordance with the timeframes established in the annual work plan;
- 14) Monitor and advise CSRRC on executive branch and legislative activity related to CSRRC functions or existence;
- 15) Generate and make recommendations for the CSRRC's consideration on the need for formal, executive, judicial, or legislative action, for inclusion in the annual report;
- 16) Identify issues in need of future study by the CSRRC for inclusion in the annual report; and
- 17) Submit monthly progress reports to Contract Monitor, per the schedule contained in the annual work plan, advising and updating CSRRC on data collection, analytic methodologies, analysis, refinements or modifications of approach, legislative or regulatory developments related to CSRRC work, recommendations for CSRRC action, and issues addressed in Md. Code Ann. Health-Gen. Article, Title § 13-801 et seq.

3.2.2 Staffing Requirements

3.2.2.1 Staffing

- a. The principal or the primary individual working with the CSRRC shall possess a master's degree or doctorate in Economics, Business, Health Care Financing, or related field.
- b. The Contractor shall adequately staff this Contract such that the CSRRC's needs are met, as defined in the scope of work;

- c. The Contractor shall designate an Account Manager to serve as the primary contact for this Contract and for all billing/invoice matters; and
- d. The Contractor shall designate additional key personnel to perform specific functions as defined in the scope of work.

3.2.3 Availability of Key Personnel

Offeror shall ensure the key personnel identified in its proposal will be available to perform Contract requirements. Contractor key personnel shall not be reassigned to another task without the written concurrence of the Contract Monitor. If any key personnel leave the employment of the Contractor, or are approved for reassignment by the Contract Monitor, the replacement must have equal or better qualifications than the incumbent and be approved by the Contract Monitor.

3.3 Security Requirements

3.3.1 Employee Identification

- (a) Each person who is an employee or agent of the Contractor or subcontractor shall display his or her company ID badge at all times while on State premises. Upon request of State personnel, each such employee or agent shall provide additional photo identification.
- (b) At all times at any facility, the Contractor's personnel shall cooperate with State site requirements that include but are not limited to being prepared to be escorted at all times, providing information for badging, and wearing the badge in a visual location at all times.

3.3.2 Information Technology

- (a) Contractors shall comply with and adhere to the State IT Security Policy and Standards. These policies may be revised from time to time and the Contractor shall comply with all such revisions. Updated and revised versions of the State IT Policy and Standards are available online at: www.doit.maryland.gov – keyword: Security Policy.
- (b) The Contractor shall not connect any of its own equipment to a State LAN/WAN without prior written approval by the State. The Contractor shall complete any necessary paperwork as directed and coordinated with the Contract Monitor to obtain approval by the State to connect Contractor-owned equipment to a State LAN/WAN.

3.3.3 Criminal Background Check

The Contractor shall obtain from each prospective employee a signed statement permitting a criminal background check. The Contractor shall secure at its own expense a Maryland State Police and/or FBI background check and shall provide the Contract Monitor with completed checks on all new employees prior to assignment. The

Contractor may not assign an employee with criminal record unless prior written approval is obtained from the Department.

3.4 Invoicing and Payment Type

3.4.1 General

- (a) All invoices for services shall be signed by the Contractor and submitted to the Contract Monitor no later than the end of the month following the month in which service was provided. Invoices shall include the following information:

- Contractor name;
- Remittance address;
- Federal taxpayer identification (or if sole proprietorship, the individual's social security number);
- Invoice period;
- Invoice date;
- Invoice number;
- State assigned Contract number;
- State assigned (Blanket) Purchase Order number(s);
- Services provided; and
- Amount due.

Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information.

- (b) The Department reserves the right to reduce or withhold Contract payment in the event the Contractor does not provide the Department with all required deliverables within the time frame specified in the Contract or in the event that the Contractor otherwise materially breaches the terms and conditions of the Contract until such time as the Contractor brings itself into full compliance with the Contract. Any action on the part of the Department, or dispute of action by the Contractor, shall be in accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, §§15-215 through 15-223 and with COMAR 21.10.02.
- (c) Contractor shall have a process for resolving billing errors.
- (d) Funds for any Contract(s) resulting from this solicitation are dependent upon appropriations from the Maryland General Assembly.

3.4.2 Payment Type:

Payments will be made as progress payments as set forth herein.

3.4.3 Invoice Submission Schedule

The Contractor shall submit invoices, for each year of the contract, in accordance with the following schedule. The percentages refer to the total (and per deliverable) contract amount for that particular year of performance. The Contractor must submit invoices, in

the amounts set forth below, the month following the month in which the Contract Monitor accepts the applicable deliverable, and by no later than the 15th of that month (e.g., if the Contract Monitor accepts the annual work plan in October, the Contractor must submit an invoice in November by no later than November 15).

- | | | |
|----|---|-----|
| 1. | Annual work plan (dates and deliverables in the plan will be deliverables/dates for contract compliance) | 15% |
| 2. | Six technical white papers on issues identified in Md. Code Ann. Health-Gen. Article, Title § 13-801 et seq. and/or as assigned by the CSRRC. (See Attachment X)
(5% per paper) | 30% |
| 3. | Attendance and participation in 18 (total) full CSRRC and technical advisory committee meetings.
(1% per meeting) | 18% |
| 4. | Monthly progress reports advising and updating CSRRC on data collection, analytic methodologies, analysis, refinements or modifications of approach, legislative or regulatory developments related to CSRRC work, recommendations for CSRRC action, and issues addressed in Md. Code Ann. Health-Gen. Article, Title § 13-801 et seq.
(1% per report) | 12% |
| 5. | Annual report in fulfillment of the requirements of § 13-809 that incorporates white papers and other issues assigned by the CSRRC. (See Attachment XX) | 25% |

Note: vendor may bill, at the end of each contract year, for any meetings not held during the specific contract year.

3.5 Insurance Requirements

- 3.5.1 The Contractor shall maintain Commercial General Liability Insurance with limits sufficient to cover losses resulting from, or arising out of, Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees, or subcontractors, but no less than a Combined Single Limit for Bodily Injury, Property Damage and Personal and Advertising Injury Liability of \$1,000,000 per occurrence and \$3,000,000 aggregate.
- 3.5.2 The Contractor shall maintain Errors and Omissions/Professional Liability insurance with minimum limits of \$3,000,000 per occurrence.
- 3.5.3 The Contractor shall maintain Automobile and/or Commercial Truck Insurance as appropriate with Liability, Collision, and PIP limits no less than those required by the State where the vehicle(s) is registered but in no case less than those required by the State of Maryland.
- 3.5.4 The Contractor shall maintain Employee Theft Insurance with minimum limits of \$1,000,000 per occurrence.

- 3.5.5 Upon execution of a Contract with the State, Contractor shall provide the Contract Monitor with current certificates of insurance, and shall update such certificates from time to time, as directed by the Contract Monitor. Such copy of the Contractor's current certificate of insurance shall contain at minimum the following:
- a. Workers' Compensation – The Contractor shall maintain such insurance as necessary and/or as required under Worker's Compensation Acts, the Longshore and Harbor Workers' Compensation Act, and the Federal Employers' Liability Act.
 - b. Commercial General Liability as required in section 3.6.1.
 - c. Errors and Omissions/Professional Liability as required in section 3.6.2.
 - d. Automobile and/or Commercial Truck Insurance as required in section 3.6.3.
 - e. Employee Theft Insurance as required in section 3.6.4.
- 3.5.6 The State shall be named as an additional named insured on the policies with the exception of Worker's Compensation Insurance and Professional Liability Insurance. Certificates of insurance evidencing coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Contract Monitor, by certified mail, not less than sixty (60) days' advance notice of any non-renewal, cancellation, or expiration. In the event the Contract Monitor receives a notice of non-renewal, the Contractor shall provide the Contract Monitor with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.
- 3.5.7 The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the Contract Monitor with the same documentation as is required of the Contractor.

3.6 Problem Escalation Procedure

- 3.6.1 The Contractor must provide and maintain a Problem Escalation Procedure (PEP) for both routine and emergency situations. The PEP must state how the Contractor will address problem situations as they occur during the performance of the Contract, especially problems that are not resolved to the satisfaction of the State within appropriate timeframes.
- The Contractor shall provide contact information to the Contract Monitor, as well as to other State personnel, as directed should the Contract Monitor not be available.
- 3.6.2 The Contractor must provide the PEP no later than ten (10) days after notice of Contract award or after the date of the Notice to Proceed, whichever is earlier. The PEP, including any revisions thereto, must also be provided within ten (10) days after the start of each contract year (and within ten (10) days after any change in circumstance which changes the PEP). The PEP shall detail how problems with work

under the Contract will be escalated in order to resolve any issues in a timely manner. The PEP shall include:

- The process for establishing the existence of a problem;
- The maximum duration that a problem may remain unresolved at each level in the Contractor's organization before automatically escalating the problem to a higher level for resolution;
- Circumstances in which the escalation will occur in less than the normal timeframe;
- The nature of feedback on resolution progress, including the frequency of feedback, to be provided to the State;
- Identification of, and contact information for, progressively higher levels of personnel in the Contractor's organization who would become involved in resolving a problem;
- Contact information for persons responsible for resolving issues after normal business hours (e.g., evenings, weekends, holidays, etc.) and on an emergency basis; and
- A process for updating and notifying the Contract Monitor of any changes to the PEP.

Nothing in this section shall be construed to limit any rights of the Contract Monitor or the State that may be allowed by the Contract or applicable law.

3.7 Substitution of Personnel

3.7.1 Substitution of Personnel

A. Continuous Performance of Key Personnel

Unless substitution is approved per paragraphs B-D of this section, key personnel shall be the same personnel proposed in the Contractor's Technical Proposal, which will be incorporated into the Contract by reference. Such identified key personnel shall perform continuously for the duration of the Contract, or such lesser duration as specified in the Technical Proposal. Key personnel may not be removed by the Contractor from working under this Contract, as described in the RFP or the Contractor's Technical Proposal, without the prior written approval of the Contract Monitor.

If the Contract is task order based, the provisions of this section apply to key personnel identified in each task order proposal and agreement.

B. Definitions

For the purposes of this section, the following definitions apply:

Extraordinary Personal Circumstance – means any circumstance in an individual's personal life that reasonably requires immediate and continuous attention for more than fifteen (15) days and that precludes the individual from performing his/her job duties under this Contract. Examples of such circumstances may include, but are not limited to, a sudden leave of absence to care for a family member who is injured, sick, or incapacitated; the death of a family member, including the need to attend to the estate or

other affairs of the deceased or his/her dependents; substantial damage to, or destruction of, the individual's home that causes a major disruption in the individual's normal living circumstances; criminal or civil proceedings against the individual or a family member; jury duty; and military service call-up.

Incapacitating – means any health circumstance that substantially impairs the ability of an individual to perform the job duties described for that individual's position in the RFP or the Contractor's Technical Proposal.

Sudden – means when the Contractor has less than thirty (30) days' prior notice of a circumstance beyond its control that will require the replacement of any key personnel working under the Contract.

C. Key Personnel General Substitution Provisions

The following provisions apply to all of the circumstances of staff substitution described in paragraph D of this section.

1. The Contractor shall demonstrate to the Contract Monitor's satisfaction that the proposed substitute key personnel have qualifications at least equal to those of the key personnel for whom the replacement is requested.
2. The Contractor shall provide the Contract Monitor with a substitution request that shall include:
 - A detailed explanation of the reason(s) for the substitution request;
 - The resume of the proposed substitute personnel, signed by the substituting individual and his/her formal supervisor;
 - The official resume of the current personnel for comparison purposes; and
 - Any evidence of any required credentials.
3. The Contract Monitor may request additional information concerning the proposed substitution. In addition, the Contract Monitor and/or other appropriate State personnel involved with the Contract may interview the proposed substitute personnel prior to deciding whether to approve the substitution request.
4. The Contract Monitor will notify the Contractor in writing of: (i) the acceptance or denial, or (ii) contingent or temporary approval for a specified time limit, of the requested substitution. The Contract Monitor will not unreasonably withhold approval of a requested key personnel replacement.

D. Replacement Circumstances

1. Voluntary Key Personnel Replacement

To voluntarily replace any key personnel, the Contractor shall submit a substitution request as described in paragraph C of this section to the Contract Monitor at least fifteen (15) days prior to the intended date of change. Except in a circumstance described in paragraph D.2 of this clause, a substitution may not occur unless and until the Contract Monitor approves the substitution in writing.

2. Key Personnel Replacement Due to Vacancy

The Contractor shall replace key personnel whenever a vacancy occurs due to the Sudden termination, resignation, leave of absence due to an Extraordinary Personal Circumstance, Incapacitating injury, illness or physical condition, or death of such personnel. (A termination or resignation with thirty (30) days or more advance notice shall be treated as a Voluntary Key Personnel Replacement as per section D.1 of this section.).

Under any of the circumstances set forth in this paragraph D.2, the Contractor shall identify a suitable replacement and provide the same information or items required under paragraph C of this section within fifteen (15) days of the actual vacancy occurrence or from when the Contractor first knew or should have known that the vacancy would be occurring, whichever is earlier.

3. Key Personnel Replacement Due to an Indeterminate Absence

If any key personnel has been absent from his/her job for a period of ten (10) days due to injury, illness, or other physical condition, leave of absence under a family medical leave, or an Extraordinary Personal Circumstance and it is not known or reasonably anticipated that the individual will be returning to work within the next twenty (20) days to fully resume all job duties, before the 25th day of continuous absence, the Contractor shall identify a suitable replacement and provide the same information or items to the Contract Monitor as required under paragraph C of this section.

However, if this person is available to return to work and fully perform all job duties before a replacement has been authorized by the Contract Monitor, at the option and sole discretion of the Contract Monitor, the original personnel may continue to work under the Contract, or the replacement personnel will be authorized to replace the original personnel, notwithstanding the original personnel's ability to return.

4. Directed Personnel Replacement

- a. The Contract Monitor may direct the Contractor to replace any personnel who are perceived as being unqualified, non-productive, unable to fully perform the job duties due to full or partial Incapacity or Extraordinary Personal Circumstance, disruptive, or known, or reasonably believed, to have committed a major infraction(s) of law, agency, or Contract requirements. Normally, a directed personnel replacement will occur only after prior notification of problems with requested remediation, as described in paragraph 4.b. If after such remediation the Contract Monitor determines that the personnel performance has not improved to the level necessary to continue under the Contract, if at all possible at least fifteen (15) days notification of a directed replacement will be provided. However, if the Contract Monitor deems it necessary and in the State's best interests to remove the personnel with less than fifteen (15) days' notice, the Contract Monitor can direct the removal in a timeframe of less than fifteen (15) days, including immediate removal.

In circumstances of directed removal, the Contractor shall, in accordance with paragraph C of this section, provide a suitable replacement for approval within fifteen (15) days of the notification of the need for removal, or the actual removal, whichever occurs first.

- b. If deemed appropriate in the discretion of the Contract Monitor, the Contract Monitor shall give written notice of any personnel performance issues to the Contractor, describing the problem and delineating the remediation requirement(s). The Contractor shall provide a written Remediation Plan within ten (10) days of the date of the notice and shall implement the Remediation Plan immediately upon written acceptance by the Contract Monitor. If the Contract Monitor rejects the Remediation Plan, the Contractor shall revise and resubmit the plan to the Contract Monitor within five (5) days, or in the timeframe set forth by the Contract Monitor in writing.

Should performance issues persist despite the approved Remediation Plan, the Contract Monitor will give written notice of the continuing performance issues and either request a new Remediation Plan within a specified time limit or direct the substitution of personnel whose performance is at issue with a qualified substitute, including requiring the immediate removal of the key personnel at issue.

Replacement or substitution of personnel under this section shall be in addition to, and not in lieu of, the State's remedies under the Contract or which otherwise may be available at law.

The remainder of this page is intentionally left blank.

SECTION 4 – PROPOSAL FORMAT

4.1 Two Part Submission

Offerors shall submit proposals in separate volumes:

- Volume I – TECHNICAL PROPOSAL
- Volume II – FINANCIAL PROPOSAL

4.2 Proposals

4.2.1 Volume I – Technical Proposal and Volume II – Financial Proposal shall be sealed separately from one another. Each Volume shall contain an unbound original, so identified, and 6 copies. The two (2) sealed Volumes shall be submitted together under one (1) label bearing:

- The RFP title and number,
- Name and address of the Offeror,
- The volume number (I or II), and
- Closing date and time for receipt of proposals

To the Procurement Officer (see section 1.5 “Procurement Officer”) prior to the date and time for receipt of proposals (see section 1.10 “Proposals Due (Closing) - Date and Time”).

4.2.2 An electronic version (CD) of the Technical Proposal in Microsoft Word format must be enclosed with the original Technical Proposal. An electronic version (CD) of the Financial Proposal in Microsoft Word format must be enclosed with the original Financial Proposal. CDs must be labeled on the outside with the RFP title and number, name of the Offeror, and volume number. CDs must be packaged with the original copy of the appropriate proposal (technical or financial).

4.2.3 A second electronic version of Volume I and Volume II in searchable pdf format shall be submitted on CD for Public Information Act (PIA) requests. This copy shall be redacted so that confidential and/or proprietary information has been removed (see section 1.19 “Public Information Act Notice”).

4.2.4 All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page “x”). Numbering within individual sections is acceptable.

4.2.5 Proposals and modifications will be shown only to State employees, members of the Evaluation Committee, or other persons deemed by the Department to have a legitimate interest in them.

4.3 Delivery

The Offeror may either mail or hand-deliver proposals.

- 4.3.1 For U.S. Postal Service deliveries, any proposal that has been received at the appropriate mailroom, or typical place of mail receipt, for the respective procuring unit by the time and date listed in the RFP will be deemed to be timely. If the Offeror chooses to use the U.S. Postal Service for delivery, the Department recommends that it use Express Mail, Priority Mail, or Certified Mail only, as these are the only forms for which the Department can verify the date and time of receipt. An Offeror using first class mail will not be able to prove a timely delivery at the mailroom and it could take several days for an item sent by first class mail to make its way by normal internal mail to the procuring unit.
- 4.3.2 Hand-delivery includes delivery by commercial carrier acting as agent for the Offeror. For any type of direct (non-mail) delivery, the Offeror is advised to secure a dated, signed, and time-stamped (or otherwise indicated) receipt of delivery.
- 4.3.3 After receipt, a Register of Proposals will be prepared that identifies each Offeror. The register of proposals will be open to inspection only after the Procurement Officer makes a determination recommending the award of the Contract.

4.4 Volume I – Technical Proposal

Note: No pricing information is to be included in the Technical Proposal (Volume I). Pricing will only be included in the Financial Proposal (Volume II).

4.4.1 Format of Technical Proposal

Inside a sealed package described in section 4.2 “Proposals,” the unbound original, 6 copies, and the electronic version shall be provided. The RFP sections are numbered for ease of reference. Section 4.4.3 sets forth the order of information to be provided in the Technical Proposal, e.g., section 1 “Title and Table of Contents,” section 2 “Claim of Confidentiality,” section 3 “Transmittal Letter,” section 4 “Executive Summary,” etc. In addition to the instructions below, the Offeror’s Technical Proposal should be organized and numbered in the same manner as this RFP. This proposal organization will allow State officials and the Evaluation Committee to “map” Offeror responses directly to RFP requirements by section number and will aid in the evaluation process.

4.4.2 Additional Required Technical Submissions

The following documents shall be included in the Technical Proposal; each in its own section.

- a. Minimum Qualifications Documentation (See section 2 “Offeror Minimum Qualifications.”)
- b. Completed Bid/Proposal Affidavit (**Attachment B**)
- c. Completed Maryland Living Wage Requirements Affidavit (**Attachment G-1**)
- d. Signed Conflict of Interest Affidavit and Disclosure (**Attachment I**)

Please note that:

- a. signed Contract (**Attachment A**),
- b. a completed Contract Affidavit (**Attachment C**),

- c. a signed Business Associate Agreement (**Attachment J**), and
- d. a signed Non-Disclosure Agreement (Award) (**Attachment K**)

are not required to be submitted with the proposal. These documents will be required to be completed and submitted by the successful Offeror within five (5) business days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.4.3 The Technical Proposal shall include the following documents and information in the order specified as follows:

4.4.3.1 Title Page and Table of Contents

The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal organized by section, subsection, and page number.

4.4.3.2 Claim of Confidentiality

Information which is claimed to be confidential is to be noted by reference and included after the title page and before the table of contents, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included (see subsection 1.19 "Public Information Act Notice").

4.4.3.3 Transmittal Letter

A transmittal letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the Technical Proposal and acknowledge the receipt of any addenda. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP.

4.4.3.4 Executive Summary

The Offeror shall condense and highlight the contents of the Technical Proposal in a section titled "Executive Summary." The Offeror shall clearly demonstrate an understanding of the objectives and goals of the Department, as well as an understanding of the Scope of Work. This section should also include an analysis of the effort and resources that will be needed to realize the CSRRC's objectives.

4.4.3.5 Proposed Work Plan

- a. The Offeror shall give a definitive description of the proposed plan to meet the requirements of the RFP, i.e., a Work Plan. It shall include the specific methodology and techniques to be used by the Offeror in providing the required services as outlined in RFP section 3 "Scope of Work," and specifically section 3.2 "Scope of Work – Requirements." The description shall include an outline of the overall management concepts employed by

the Offeror and a project management plan, including project control mechanisms and overall timelines. Project deadlines considered contract deliverables must be recognized in the Work Plan.

- b. The Offeror shall identify the location(s) in which it proposes to provide the services, any current facilities that it operates, and any required construction to satisfy the State's requirements as outlined in this RFP.
- c. The Offeror must explain, as per the requirements in section 3.6 "Problem Escalation Procedure," how problems associated with the work to be performed under the Contract will be escalated in order to resolve any issues in a timely manner.

4.4.3.6 Corporate Qualifications and Capabilities

The Offeror shall include information on past corporate experience with similar projects and/or services. The Offeror shall describe how its organization can meet the requirements of this RFP and shall include the following information:

- a. An overview of the Offeror's experience and capabilities providing similar services. This description shall include:
 - i. The number of years the Offeror has provided the similar services; and
 - ii. The number of clients and geographic locations that the Offeror currently serves.
- b. The names and titles of key management personnel who will be directly involved with supervising the services to be performed under this Contract.
- c. At least three (3) references from customers who are capable of documenting the Offeror's ability to provide the services specified in this RFP. Each reference shall be from a client for whom the Offeror provided services within the past five (5) years and shall include the following information:
 - i. Name of client organization;
 - ii. Name, title, telephone number, and e-mail address, if available, of point of contact for client organization; and
 - iii. Value, type, duration, and services provided.

DHMH reserves the right to request additional references or use references not provided by an Offeror.

- d. Offeror must include in its proposal a commonly accepted method to prove its fiscal integrity. Some acceptable methods include but are not limited to one or more of the following:
 - i. Dunn and Bradstreet Rating;
 - ii. Standard and Poor's Rating;
 - iii. Recently audited (or best available) financial statements;

- iv. Lines of credit;
- v. Evidence of a successful financial track record; and
- vi. Evidence of adequate working capital.

The Offeror shall also describe how it is configured managerially, financially, and individually so as to afford the assurance that it can execute a contract successfully.

- e. The Offeror's process for resolving billing errors.
- f. Corporate organizational chart that identifies the complete structure of the company including any parent company, headquarters, regional offices, and subsidiaries of the Offeror.
- g. Complete list of all subcontractors, other than those used to meet an MBE subcontracting goal, which are identified separately. This list shall include a full description of the duties each subcontractor will perform and why/how each subcontractor was deemed the most qualified for this project.
- h. Legal Action Summary. This summary shall include:
 - i. A statement as to whether there are any outstanding legal actions or potential claims against the Offeror and a brief description of any action;
 - ii. A brief description of any settled or closed legal actions or claims against the Offeror over the past five (5) years;
 - iii. A description of any judgments against the Offeror within the past five (5) years, including the case name, number court, and what the final ruling or determination was from the court; and
 - iv. In instances where litigation is on-going and the Offeror has been directed not to disclose information by the court, provide the name of the judge and location of the court.

i. Past State Experience

The Offeror shall provide a list of all contracts with any entity of the State of Maryland for which it is currently performing services or for which services have been completed within the last five (5) years. For each identified contract the Offeror is to provide:

- i. The State contracting entity;
- ii. A brief description of the services/goods provided;
- iii. The dollar value of the contract;
- iv. The term of the contract;
- v. The State employee contact person (name, title, telephone number, and, if possible, e-mail address); and
- vi. Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be used by the Procurement Officer to determine responsibility of the Offeror and considered as part of the experience and past performance evaluation criteria of the RFP.

4.4.3.7 Experience and Qualifications of Proposed Staff

The Offeror shall describe in detail how the proposed staff's experience and qualifications relate to their specific responsibilities, as detailed in the Work Plan. The Offeror shall include individual resumes for the key personnel who are to be assigned to the project if the Offeror is awarded the contract. Each resume should include the amount of experience the individual has had relative to the scope of work set forth in this solicitation. Letters of intended commitment to work on the project, including from non-MBE subcontractors, should be included in this section.

The Offeror is required to provide an Organizational Chart outlining personnel and their related duties. The Offeror shall include job titles and the percentage of time each individual will spend on his/her assigned tasks. Offerors using job titles other than those commonly used by industry standards must provide a crosswalk document.

4.4.3.8 Offeror Technical Response to RFP Requirements

If the State is seeking Offeror agreement to a requirement(s), the Offeror shall state agreement or disagreement. The Offeror shall address each major section in its Technical Proposal and describe how its proposed services will meet the requirement(s). Any paragraph in the Technical Proposal that responds to a work requirement shall include an explanation of how the work will be done. Any exception to a requirement, term, or condition may result in having the proposal deemed unacceptable or the Offeror classified as not reasonably susceptible of being selected for award.

4.4.3.9 Economic Benefit Factors

The Offeror shall describe the benefits that will accrue to the State economy as a direct or indirect result of the Offeror's performance of the Contract resulting from this RFP. The Offeror shall not include any detail of the Financial Proposal with this technical information. The Offeror will take into consideration the following elements:

- a. The estimated percentage of Contract dollars to be recycled into Maryland's economy in support of the Contract, through the use of Maryland subcontractors, suppliers, and joint venture partners. The Offeror should be as specific as possible and provide a percentage breakdown of expenditures in this category.
- b. The estimated number and types of jobs for Maryland residents resulting from this Contract. The Offeror should indicate job classifications, number of employees in each classification, and the aggregate Maryland payroll percentages to which the Contractor has committed at both prime and, if applicable, subcontract levels.
- c. Tax revenues to be generated for Maryland and its political subdivisions as a result of this Contract. The Offeror should indicate the appropriate tax category (e.g., sales tax, inventory taxes, and estimated personal income taxes for new

employees). The Offeror should provide a forecast of the total tax revenues resulting from the Contract.

- d. The estimated percentage of subcontract dollars committed to Maryland small businesses and MBEs.

4.4.3.10 Certificate of Insurance

The Offeror shall provide a copy of the Offeror's current certificate(s) of insurance with the prescribed limits set forth in section 3.6 "Insurance Requirement." The successful Offeror must provide a certificate of insurance naming the State as an additional insured, if required, within five (5) business days from notification by the Procurement Officer that the Offeror has been determined to be the apparent awardee.

4.5 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in section 4.2 "Proposals," the Offeror shall submit an original unbound copy, 6 copies, and an electronic version in MS Word of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in **Attachment F**. The Offeror shall complete the price sheets only as provided in the Financial Proposal Form and Instructions.

The remainder of this page is intentionally left blank.

SECTION 5 – EVALUATION CRITERIA AND SELECTION PROCEDURE

5.1 Evaluation Criteria

Evaluation of proposals will be based on the criteria set forth below. The Contract(s) resulting from this RFP will be awarded to the Offeror(s) that submits the proposal most advantageous to the State considering price and the technical factors set forth herein. In making this determination, technical factors will receive equal weight than price factors.

5.2 Technical Criteria

The criteria to be applied to each Technical Proposal are listed in descending order of importance.

- 5.2.1 Experience and Qualifications of Proposed Staff (See RFP § 4.4.3.7)
- 5.2.2. Proposed Work Plan (See RFP § 4.4.3.5)
- 5.2.3 Offeror's Technical Response to RFP Requirements (See RFP § 4.4.3.8)
- 5.2.4 Corporation Qualifications and Capabilities (See RFP § 4.4.3.6)
- 5.2.4 Economic Benefit Factors (See RFP § 4.4.3.9)

5.3 Financial Criteria

All qualified Offerors will be ranked from the lowest (most advantageous) to the highest (least advantageous) price based on the total price proposed within the stated guidelines set forth in this RFP and as submitted on **Attachment F**—Financial Proposal Form.

5.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, COMAR 21.05.01.04 requires that procuring units apply a reciprocal preference under the following conditions:

- The most advantageous offer is from a responsible Offeror whose headquarters, principal base of operations, or principal site (that will primarily provide the services required under this RFP) is in another state.
- The other state gives a preference to its resident businesses through law, policy, or practice; and
- The preference does not conflict with a Federal law or grant affecting the procurement Contract.

The preference given shall be identical to the preference that the other state, through law, policy, or practice gives to its resident businesses.

5.5 Selection Procedures

5.5.1 In General

The Contract will be awarded in accordance with the competitive sealed proposals method found at COMAR 21.05.03. The competitive sealed proposals method allows for the conduct of discussions and the revision of proposals during these discussions. Therefore, the State may conduct discussions with all Offerors that have submitted proposals that are determined to be reasonably susceptible of being selected for contract award. The State reserves the right to make an award without holding discussions.

In either case (i.e., with or without discussions), the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award at any time after the initial closing date for receipt of proposals and prior to Contract award. If the State finds an Offeror to be not responsible and/or an Offeror's technical proposal to be not reasonably susceptible of being selected for award, that Offeror's financial proposal will be returned if the financial proposal is unopened at the time of the determination.

Proposals are usually evaluated by a committee, which then makes a recommendation for award to the Procurement Officer. However, the Procurement Officer may evaluate proposals without a committee and recommend an Offeror for award. In either case, the Procurement Officer, with the concurrence of the agency head or designee and with input from the Contract Monitor, will make the final determination and recommendation for contract award.

5.5.2 Selection Process Sequence

5.5.2.1 Technical proposals are evaluated for technical merit and ranked. During this review, oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform the services, as well as to facilitate arrival at a Contract that is most advantageous to the State. For scheduling purposes, Offerors should be prepared to make an oral presentation and to participate in discussions within two (2) weeks of the delivery of proposals to the State. Qualified Offerors will be contacted by the State as soon as discussions are scheduled.

5.5.2.2 Offerors must confirm in writing any substantive oral clarifications of, or changes in, their proposals made in the course of discussions. Any such written clarifications or changes then become part of the Offeror's proposal. Proposals are given a final review and ranked.

5.5.2.3 The financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the evaluation committee or Procurement Officer may again conduct discussions to further evaluate the Offeror's entire proposal.

5.5.2.4 When in the best interest of the State, the Procurement Officer may permit Offerors that have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs). The State may make an award without issuing a request for a BAFO.

5.5.3 Award Determination

Upon completion of all discussions and negotiations, reference checks, and site visits (if any), the Procurement Officer, with the concurrence of the Contract Monitor, will recommend award of the Contract to the responsible Offeror(s) that submitted the proposal(s) determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP.

The remainder of this page is intentionally left blank.

SECTION 6 - ATTACHMENTS

ATTACHMENT A – Contract

This is the Contract used by DHMH. It is provided with the RFP for informational purposes and is not required to be signed at proposal submission time. Upon notification of recommendation for award, a completed contract will be sent to the selected Offeror for signature. The Offeror must return three (3) executed copies of the Contract within five (5) working days after receipt. Upon award, a fully-executed copy will be sent to the Contractor.

ATTACHMENT B – Bid/Proposal Affidavit

This document must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT C – Contract Affidavit

This document is not required at the time of proposal submission, but may be submitted to expedite processing. If not received with the proposal, it must be submitted by the selected Offeror to the Procurement Officer with the Contract (see Attachment A).

ATTACHMENT E – Pre-Proposal Conference Response Form

It is requested that this form be completed and submitted as described in the RFP by those potential Offerors that plan on attending the Pre-Proposal Conference.

ATTACHMENT F – Financial Proposal Instructions and Financial Proposal Form

Financial Proposal forms must be completed and submitted as the Financial Proposal.

ATTACHMENT G – Living Wage Requirements for Service Contracts

ATTACHMENT G-1 – Maryland Living Wage Requirements and Living Wage

This document must be completed and submitted with the Technical Proposal.

ATTACHMENT I – Conflict of Interest Affidavit and Disclosure

This document must be completed and submitted with the Technical Proposal.

ATTACHMENT K – Non-Disclosure Agreement (Award)

This document is not required at the time of proposal submission, but may be submitted to expedite processing. If not received with the proposal, it must be submitted by the selected Offeror to the Procurement Officer with the Contract (see Attachment A).

ATTACHMENT A – CONTRACT

Technical and Advisory Support for Community Services Reimbursement Rate Commission

THIS CONTRACT (the “Contract”) is made this ____ day of ____, ____ by and between ____ (the “Contractor”) and the STATE OF MARYLAND, acting through the DEPARTMENT OF HEALTH AND MENTAL HYGIENE, OFFICE OF PROCUREMENT AND SUPPORT SERVICES (the “Department”).

In consideration of the promises and the covenants herein contained, the parties agree as follows:

1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “COMAR” means Code of Maryland Regulations.
- 1.2 “Contract Monitor” means the individual identified in the RFP as the Contract Monitor.
- 1.3 “Contractor” means ____ whose principal business address is ____ and whose principal office in Maryland is ____.
- 1.4 “Department” means the Maryland Department of Health and Mental Hygiene and any of its Agencies, Offices, Administrations, Facilities or Commissions.
- 1.5 “Financial Proposal” means the Contractor’s Financial Proposal dated ____.
- 1.6 “Procurement Officer” means the individual identified in the RFP as the Procurement Officer.
- 1.7 “RFP” means the Request for Proposals titled, Solicitation # DHMH OPASS 12 -11011, and any addenda thereto issued in writing by the State.
- 1.8 “State” means the State of Maryland.
- 1.9 “Technical Proposal” means the Contractor’s Technical Proposal, dated ____.

2. Scope of Contract

- 2.1 The Contractor shall provide all deliverables as defined in the RFP Section 3 “Scope of Work.” These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Technical Proposal

Exhibit C – The Financial Proposal

Exhibit D - State Contract Affidavit, executed by the Contractor and dated ____.

- 2.2 The Procurement Officer, in consultation with the Contract Monitor, may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Modifications to this Contract may be made provided (a) the modifications are made in writing; (b) all parties sign the modifications; and (c) approval by the required agencies, as described in COMAR, Title 21, is obtained.

3. Period of Performance.

- 3.1 The Contract resulting from this RFP shall be for a period of 3 years beginning on or about October 1st, 2012 and ending on or about September 30th, 2015. The Contractor shall provide services upon receipt of official notification of award.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract, the Department shall pay the Contractor in accordance with the terms of this Contract and at the prices specified on the Financial Proposal Form (Attachment F). Unless properly modified (see above section 2.3), payment to the Contractor pursuant to this Contract shall not exceed \$_____.

Contractor shall notify the Contract Monitor, in writing, at least sixty (60) days before payments reach the specified amount. After notification by the Contractor, if the State fails to increase the Contract amount, the Contractor shall have no obligation to perform under this Contract after payments reach the stated amount; provided, however, that, prior to the stated amount being reached, the Contractor shall: (a) promptly consult with the State and work in good faith to establish a plan of action to assure that every reasonable effort has been undertaken by the Contractor to complete State-defined critical work in progress prior to the date the stated amount will be reached; and Information Technology contracts; (b) secure data bases, systems, platforms and/or applications on which the Contractor is working so that no damage or vulnerabilities to any of the same will exist due to the existence of any such unfinished work.

- 4.2 Payments to the Contractor shall be made no later than thirty (30) days after the Department's receipt of a proper invoice for services provided by the Contractor, acceptance by the Department of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must

include the Contractor's Federal Tax Identification Number which is ____ Charges for late payment of invoices other than as prescribed by Md. Code Ann., State Finance and Procurement Article, § 15-104, are prohibited. Invoices shall be submitted to the Contract Monitor. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

- 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
- 4.4 Contractor's eMarylandMarketplace vendor ID number is ____.

5. Rights to Records

- 5.1 The Contractor agrees that all documents and materials including, but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 5.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

6. Exclusive Use

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

7. Patents, Copyrights, and Intellectual Property

- 7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to or a trade secret of, another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.
- 7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorneys' fees that a court finally awards, provided the State: (a) promptly notifies the Contractor in writing of the claim; and (b) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.
- 7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: (a) procure for the State the right to continue using the applicable item; (b) replace the product with a non-infringing product substantially complying with the item's specifications; or (c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

8. Public Information

- 8.1 Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including, without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.
- 8.2 Offerors should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Md. Code Ann., State Government Article, Title 10, Subtitle 6.

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor

shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

10. Indemnification

- 10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.
- 10.2 The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim, or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 10.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.
- 10.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist, and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

11. Non-Hiring of Employees

No official or employee of the State, as defined under Md. Code Ann., State Government Article, § 15-102, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

12. Disputes

This Contract shall be subject to the provisions of the Md. Code Ann., State Finance and Procurement Article, Title 15, Subtitle 2, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within thirty (30) days after the basis for the claim is known or should have been known, whichever is earlier. Contemporaneously with or within thirty (30) days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. Maryland Law

- 13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 13.2 The Md. Code Ann., Commercial Law Article, Title 22, Maryland Uniform Computer Information Transactions Act, does not apply to this Contract or to any purchase order or Notice to Proceed issued under this Contract.
- 13.3 Any and all references to the Maryland Code Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

14. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

16. Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

17. Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for

termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

18. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

19. Delays and Extensions of Time

The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

21. Pre-Existing Regulations

In accordance with the provisions of Md. Code Ann., State Finance and Procurement Article, § 11-206, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

22. Financial Disclosure

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business

is to receive in the aggregate, \$100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

23. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, §§ 14-101 through 14-108, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (a) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (b) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (i) February 5, to cover the six (6) month period ending January 31; and (ii) August 5, to cover the six (6) month period ending July 31.

24. Documents Retention and Inspection Clause

The Contractor and subcontractors shall retain and maintain all records and documents relating to this contract for a period of five (5) years after final payment by the State hereunder or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times.

If the Contractor supplies services to a State residential health care facility under the Mental Hygiene Administration, the Family Health Administration, the Alcohol and Drug Abuse Administration, or the Developmental Disabilities Administration, the Contractor agrees, in addition to the requirements above:

- 24.1 That pursuant to 42 Code of Federal Regulations (C.F.R.) Part 420, the Secretary of Health and Human Services, and the Comptroller General of the United States, or their duly-authorized representatives, shall be granted access to the Contractor's contract, books, documents and records necessary to verify the cost of the services provided under this contract, until the expiration of four (4) years after the services are furnished under this contract; and
- 24.2 That similar access will be allowed to the books, documents and records of any organization related to the Contractor or controlled by the Contractor (as those terms are defined in 42 C.F.R. (420.301) if that organization is sub-contracting to provide services with a value of \$10,000 or more in a twelve (12) month period to be reimbursed through funds provided by this contract.

25. Compliance with Laws

The Contractor hereby represents and warrants that:

- 25.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;

- 25.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 25.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- 25.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

26. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid or offer.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its bid or offer, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Department's Contract Monitor, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Department's Contract Monitor. Any subcontracts shall include such language as may be required in various clauses contained within this contract, exhibits, and attachments. The contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

28. Liability

- 28.1 For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, Contractor shall be liable as follows:
- a. For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 7 of this Contract;
 - b. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
 - c. For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount of the Contract value up to the date of settlement or final award of any such claim. Third party claims, arising under Section 10 "Indemnification" of this Contract, are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third

party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

29. Parent Company Guarantee (If Applicable)

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by [Contractor name] of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations and liabilities. [Corporate name of Parent Company] may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. [Corporate name of Parent Company] further agrees that if the State brings any claim, action, suit or proceeding against [Contractor], [Corporate name of Parent Company] may be named as a party, in its capacity as Absolute Guarantor.

30. Commercial Nondiscrimination

- 30.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 30.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by DBM, in all subcontracts.
- 30.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann.,

State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

31. Prompt Pay Requirements

- 31.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the Department, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
 - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - e. Take other or further actions as appropriate to resolve the withheld payment.
- 31.2 An “undisputed amount” means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation:
- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
 - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.
- 31.3 An act, failure to act, or decision of a Procurement Officer or a representative of the Department, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- a. Affect the rights of the contracting parties under any other provision of law;
 - b. Be used as evidence on the merits of a dispute between the Department and the contractor in any other proceeding; or
 - c. Result in liability against or prejudice the rights of the Department, the State, or the CSRRC.
- 31.4 The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise (MBE) program.
- 31.5 To ensure compliance with certified MBE subcontract participation goals, the Department may, consistent with COMAR 21.11.03.13, take the following measures:

- a. Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
- b. This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.
 - iv. Verification shall include a review of:
 - (a) The Contractor's monthly report listing unpaid invoices over thirty (30) days old from certified MBE subcontractors and the reason for nonpayment; and
 - (b) The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding thirty (30) days and invoices for which the subcontractor has not been paid.
- c. If the Department determines that the Contractor is not in compliance with certified MBE participation goals, then the Department will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- d. If the Department determines that the Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that the Department requires, the Department may then:
 - i. Terminate the contract;
 - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
 - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by any applicable laws, regulations, and directives regarding the payment of undisputed amounts.
- e. Upon completion of the Contract, but before final payment or release of retainage or both, the Contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from, MBE subcontractors.

32. Contract Monitor

- 32.1 Contract Monitor. The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. All matters relating to the interpretation of this Contract shall be referred to the Contract Monitor for determination.

33. Notices

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State: Sharon R. Gambrill, CPPB, Procurement Officer
 Maryland Department of Health and Mental Hygiene
 Office of Procurement and Support Services
 201 West Preston Street, Room 416B
 Baltimore, Maryland 21201

If to the Contractor: _____

34. Confidentiality

The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance and use of health and financial information. This includes, where appropriate, the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations at 45 C.F.R. Parts 160 and 164 and the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by the Department for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health and financial information.

35. Limited English Proficiency

The contractor shall provide equal access to public services to individuals with limited English proficiency in compliance with Md. Code Ann., State Government Article, §§ 10-1101 et seq., and Policy Guidance issued by the Office of Civil Rights, Department of Health and Human Services, and DHMH Policy 02.06.07.

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND
MENTAL HYGIENE

By:

By: Joshua M. Sharfstein, M.D., Secretary

Date

Or designee:

Date

Approved for form and legal sufficiency
this ____ day of _____, 201__.

Assistant Attorney General

APPROVED BY BPW: _____

(Date)

(BPW Item #)

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), _____ (title), of
_____ (print firm name) possess the legal authority to
make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland.

"Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners.

"Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. CERTIFICATION REGARDING MINORITY BUSINESS ENTERPRISES.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;
- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or

(4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT:

Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (print name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

Revised July 23, 2012

ATTACHMENT C – CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), _____ (title), of
_____ (print firm name) possess the legal authority to
make this Affidavit.

B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

I FURTHER AFFIRM THAT:

The business named above is a (check applicable box):

- (1) Corporation — ☐ domestic or ☐ foreign;
- (2) Limited Liability Company — ☐ domestic or ☐ foreign;
- (3) Partnership — ☐ domestic or ☐ foreign;
- (4) Statutory Trust — ☐ domestic or ☐ foreign;
- (5) ☐ Sole Proprietorship.

and is registered or qualified as required under Maryland Law. I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID

Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID

Number: _____ Address: _____

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other

agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101 — 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

(1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.

(2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:

(a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;

(b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;

(c) Prohibit its employees from working under the influence of drugs or alcohol;

(d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;

(e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

(f) Establish drug and alcohol abuse awareness programs to inform its employees about:

(i) The dangers of drug and alcohol abuse in the workplace;

- (ii) The business's policy of maintaining a drug and alcohol free workplace;
- (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
- (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;

(g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;

(h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:

- (i) Abide by the terms of the statement; and
- (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;

(i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;

(j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:

- (i) Take appropriate personnel action against an employee, up to and including termination; or
- (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and

(k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.

(3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.

(4) I acknowledge and agree that:

- (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;

(b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 20____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____ (printed name of Authorized Representative and Affiant)

_____ (signature of Authorized Representative and Affiant)

Revised July 23, 2012

ATTACHMENT E – PRE-PROPOSAL CONFERENCE RESPONSE FORM

**Solicitation Number - DHMH OPASS 12-10111
Technical and Advisory Support for CSRRC**

A Pre-Proposal Conference will be held at 9:30 a.m. local time, on July 31, 2012, at DHMH, 201 W Preston St. Baltimore, MD 21201 Conference Room L-4. Please return this form by July 30, 2012, advising whether or not you plan to attend.

Return via e-mail or fax this form to the Contract Officer:

John Gullucci
Office of Procurement and Support Services
Department of Health and Mental Hygiene
201 W Preston Street
E-mail: jgullucci@dhmh.state.md.us
Fax: (410) 333-5958

Please indicate:

_____ Yes, the following representatives will be in attendance:

- 1.
- 2.
- 3.

_____ No, we will not be in attendance.

Please specify whether any reasonable accommodations are requested (see RFP § 1.7 “Pre-Proposal Conference”):

Signature

Title

Name of Firm (please print)

ATTACHMENT F – FINANCIAL PROPOSAL INSTRUCTIONS & FINANCIAL PROPOSAL FORM

FINANCIAL PROPOSAL INSTRUCTIONS

Instructions

In order to assist Offeror in the preparation of its financial proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offeror shall submit its financial proposal on the form in accordance with the instructions on the form and as specified herein. Do not alter the forms or the financial proposal may be rejected. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL PRICE PROPOSED. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual unit price the State shall pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e. .344 shall be 34 and .345 shall be 35.
- D) Every blank in the Financial Proposal Form shall be filled in. Any blanks may result in the proposal being rejected. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the form, nothing shall be entered on the Financial Proposal Form that alters or proposes conditions or contingencies on the prices.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E.

Financial Proposal Form

The Financial Proposal shall contain all price information in the format specified on these pages. Complete the price sheets only as provided in the Financial Proposal Instructions. Do not amend, alter or leave blank any items on the Financial Proposal Form. If option years are included, Offeror must submit prices for each option year. Failure to adhere to any of these instructions may result in the proposal being rejected by the Department.

Note: Although deliverables are broken down by type and quantity, payment will be made according to the schedule established in the annual work plan

Year One:

1. Annual work plan	\$ _____
2. Technical White Papers (6)	\$ _____
3. Attend (18) full CSRRC & tech advisory committee meeting	\$ _____
4. Monthly progress reports (12)	\$ _____
5. Annual Report	\$ _____
TOTAL FOR YEAR ONE (1+2+3+4+5)	\$ _____ (A)

Year Two:

1. Annual work plan	\$ _____
2. Technical White Papers (6)	\$ _____
3. Attend (18) full CSRRC and tech advisory committee meeting	\$ _____
4. Monthly progress reports (12)	\$ _____
5. Annual Report	\$ _____
TOTAL FOR YEAR TWO (1+2+3+4+5)	\$ _____ (B)

Year Three:

1. Annual work plan	\$ _____
2. Technical White Papers (6)	\$ _____
3. Attend (18) full CSRRC and tech advisory committee meeting	\$ _____
4. Monthly progress reports (12)	\$ _____
5. Annual Report	\$ _____
TOTAL FOR YEAR THREE (1+2+3+4+5)	\$ _____ (C)

A+B+C = \$ _____ (Total Evaluated Price)

Note: Prices may not vary more than 5% from year to year.

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

Company Name: _____

Company Address: _____

FEIN: _____ eMM #: _____

Telephone #: _____ Fax #: _____

ATTACHMENT G – LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS
--

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements in the Md. Code Ann., State Finance and Procurement Article, Title 18, and the regulations proposed by the Commissioner of Labor and Industry (Commissioner). The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (a) Has a State contract for services valued at less than \$100,000, or
 - (b) Employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (a) Performs work on a State contract for services valued at less than \$100,000,
 - (b) Employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (c) Performs work for a Contractor not covered by the Living Wage Law as defined in B(1)(b) above, or B(3) or C below.
 - (3) Service contracts for the following:
 - (a) Services with a Public Service Company;
 - (b) Services with a nonprofit organization;
 - (c) Services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (d) Services between a Unit and a County or Baltimore City.

- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent Contractor or assign work to employees to avoid the imposition of any of the requirements of the Md. Code Ann., State Finance and Procurement Article, Title 18.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in the Md. Code Ann., State Finance and Procurement Article, §18-103(c), shall not lower an employee's wage rate below the minimum wage set at Md. Code Ann., Labor and Employment Article, §3-413. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner.
- H. A Contractor/Subcontractor may reduce the wage rates paid under Md. Code Ann., State Finance and Procurement Article, §18-103(a), by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in Md. Code Ann., Labor and Employment Article, §3-413.
- I. Under Md. Code Ann., State and Finance Procurement Article, Title 18, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the Contractor/Subcontractor

shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.

- J. Information pertaining to reporting obligations may be found by going to the Division of Labor and Industry website at <http://www.dlr.state.md.us/labor/> and clicking on Living Wage for State Service contracts.

ATTACHMENT G-1 - MARYLAND LIVING WAGE AFFIDAVIT OF AGREEMENT

Contract No. _____ Tier _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract Is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- ☐ Bidder/Offeror is a nonprofit organization
- ☐ Bidder/Offeror is a public service company
- ☐ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- ☐ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract Is a Living Wage Contract

- A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms its commitment to comply with the Md. Code Ann., State Finance and Procurement Article, Title 18 and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living wage rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.
- B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- ☐ The employee(s) proposed to work on the contract will spend less than one-half of the employee's time during any work week on the contract
- ☐ The employee(s) proposed to work on the contract is/are 17 years of age or younger during the duration of the contract; or
- ☐ The employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized Representative: _____

Signature of Authorized Representative

Date

Title

Witness Name (Typed or Printed)

Witness Signature

Date

Submit This Affidavit with Bid/Proposal

ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT AND DISCLOSURE

Reference COMAR 21.05.08.08

- A. “Conflict of interest” means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- B. “Person” has the meaning stated in COMAR 21.01.02.01B(64) and includes an Offeror, Contractor, consultant, or subcontractor or sub-consultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.
- C. The Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.
- D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):
- E. The Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____
(Authorized Representative and Affiant)

SUBMIT THIS AFFIDAVIT WITH THE TECHNICAL PROPOSAL

ATTACHMENT K – NON-DISCLOSURE AGREEMENT (AWARD)

THIS NON-DISCLOSURE AGREEMENT (the “Agreement”) is made this _____ day of _____, 201____, by and between the State of Maryland, (the “State”), acting by and through its Department of Health and Mental Hygiene (the “Department”) and _____ (the “Contractor”).

RECITALS

WHEREAS, the Contractor has been awarded a contract (the “Contract”) following the solicitation for Request for Proposals (“RFP”) Technical and Advisory Support of CSRRC, Solicitation # DHMH OPASS 12-10111; and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it will be necessary for the State at times to provide the Contractor and the Contractor’s employees, agents, and subcontractors (collectively the “Contractor’s Personnel”) with access to certain information the State deems confidential information (the “Confidential Information”).

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the RFP and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.
2. Contractor shall not, without the State’s prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor’s Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor’s Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the Contractor. Contractor shall update Exhibit A by adding additional names (whether Contractor’s personnel or a subcontractor’s personnel) as needed, from time to time.
3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor’s performance of the RFP or who will otherwise have a role in performing any aspect of the RFP, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or

condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.
5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).
6. Contractor shall, at its own expense, return to the Department all copies of the Confidential Information in its care, custody, control or possession upon request of the Department or on termination of the Contract. Confidential Information returned to the State shall be accompanied by the Certification that is attached hereto and made a part hereof as Exhibit B and shall be signed by an officer of the Contractor authorized to bind the Contractor.
7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.
8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and costs.
9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the Contractor shall provide originals of such executed Agreements to the State.
10. The parties further agree that:
 - a. This Agreement shall be governed by the laws of the State of Maryland;

- b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
- c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
- d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement;
- e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures;
- f. The Recitals are not merely prefatory but are an integral part hereof; and
- g. The effective date of this Agreement shall be the same as the effective date of the Contract entered into by the parties.

IN WITNESS WHEREOF, the parties have, by their duly authorized representatives, executed this Agreement as of the day and year first above written.

Contractor: _____ Maryland Department of Health and
Mental Hygiene

By: _____ (SEAL) By: _____

Printed Name: _____ Printed Name: _____

Title: _____ Title: _____

Date: _____ Date: _____

NON-DISCLOSURE AGREEMENT - EXHIBIT A

**LIST OF CONTRACTOR'S EMPLOYEES AND AGENTS WHO WILL BE
GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION**

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date

NON-DISCLOSURE AGREEMENT - EXHIBIT B

**CERTIFICATION TO ACCOMPANY RETURN OF CONFIDENTIAL
INFORMATION**

I AFFIRM THAT:

To the best of my knowledge, information, and belief, and upon due inquiry, I hereby certify that: (i) all Confidential Information which is the subject matter of that certain Agreement by and between the State of Maryland and

("Contractor") dated _____, 20____ ("Agreement") is attached hereto and is hereby returned to the State in accordance with the terms and conditions of the Agreement; and (ii) I am legally authorized to bind the Contractor to this affirmation.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, HAVING MADE DUE INQUIRY.

DATE: _____

NAME OF CONTRACTOR: _____

BY: _____
(Signature)

TITLE: _____
(Authorized Representative and Affiant)



Analyses of FY 2007 DDA Cost Reports

5 June 2008

Executive Summary

Providers appear to be consistently incurring losses on day and supported employment programs. These losses may be due to increased transportation costs. Residential services generally operated at a slim positive margin in 2003 and 2006, and a slim negative margin in 2004, 2005 and 2007. Community Supported Living Arrangements (CSLA) services were generally profitable in 2007, as was the case in prior years. It should be noted that these results are in aggregate, and that individual providers may be losing money on a service when the aggregate result is a profit, and vice versa.

Introduction

The CSRRC is required by its enabling legislation to:

Review the data reported in the Developmental Disabilities Administration Annual Cost Reports and use the data to develop relative performance measures of providers.

To this end 111 Cost Reports for fiscal year 2007 were obtained from the Developmental Disabilities Administration (DDA), key fields from these cost reports were extracted and input into a database for analysis, and the analysis described in this report was then carried out.

To avoid any misunderstanding it will be worthwhile to discuss how the term “relative performance measures” is being interpreted for this purpose. The cost reports provide data on costs, revenues and utilization, so the performance measures that can be generated using the Cost Reports are necessarily financial and utilization measures. Accordingly, the measures that result are comparisons of providers with one another. As such they do not represent comparison with some objective standard. It will not be possible to develop outcomes measures from these data.

Questions to be addressed

Some specific questions will be addressed by this analysis. The first item will be to provide some general descriptive information regarding the range of services provided. The second will be the relative profitability of the different types of services provided, i.e., day services, residential services, employment services, and CSLA, in total and by provider. The FPS includes two components to rates: a client component that varies depending upon client needs, and an administrative component that is a fixed amount per day for the particular service. In response to the directive to study transportation costs the transportation costs and mileages will be studied.

Analysis and resultsError! Bookmark not defined.

Descriptive statistics

The following table presents some summary statistics from the Cost Reports. In this table medians are presented rather than means as they are less influenced by outliers.

Table 1: Summary statistics, fiscal year 2007

	CSLA	Residential	Day	Employment
# of providers	64	86	60	63
Median Margin 2006	9.33%	0.54%	-0.20%	-5.20%
Median Margin 2007	7.65%	-0.97%	-2.67%	-4.43%
Median Cost/Day	\$77.71	\$204.40	\$77.42	\$66.51
Percentage of revenue	9%	61%	19%	11%

These data suggest that providers are profiting from the provision of CSLA services, and are generally losing money on supported employment services. These results are generally consistent with the results found for fiscal years 2002 through 2006. CSLA services were implemented relatively recently, and recently enrolled clients are reported to be more profitable than clients who have been with a provider for an extended period of time. The payments for CSLA comprise only about 9% of the total expenditures on community services.

Transportation costs

The FY 2003 Cost Report was the first in which detailed data on transportation costs and utilization were collected. These data were examined and large differences among providers in transportation costs were noted. However, due to problems with the data reported the analysis of transportation costs was delayed. The quality of the transportation data did appear to be somewhat improved in the FY 2004 Cost Reports, although there were still some obvious problems. The survey forms and instructions were substantially revised for the FY 2005 survey to reduce any ambiguity as to what should be reported. The FY 2007 Cost Report used the same forms as the FY 2005 and 2006 Cost Reports. While the data have improved over time, there are clearly inconsistencies in the ways in which the transportation cost data are being reported, so the results presented below should be interpreted with caution.

The following tables provide summaries of the transportation costs per day and per mile.

Table 2: Transportation cost per client per day

	Day	Supported Employment	CSLA	Residential
Median FY 2006	\$11.99	\$8.94	\$2.92	\$6.77
Median FY 2007	\$11.85	\$9.11	\$3.51	\$7.09

Table 3: Transportation cost per mile

	Day	Supported Employment	CSLA	Residential
Median FY 2006	\$1.58	\$1.02	\$0.72	\$0.61
Median FY 2007	\$1.71	\$0.92	\$0.72	\$0.73

Caveats and comments

Transportation costs may be an issue for day and supported employment services. For residential services providers the transportation requirements are smaller, and more varied in their nature, with transportation of residential clients to day programs generally being provided by the day program.

The data still show substantial variation between providers in the costs. By reporting medians the impact of these variations is reduced, but not eliminated. The Commission encourages DDA and the providers to try to improve the quality of the data reporting on transportation, and to continue to study the issue.

The capital cost for vehicles is based on depreciation. This underestimates the real cost in that it does not account for inflation. Also, many providers are likely to have vehicles that are fully depreciated so are not contributing any depreciation cost.

Conclusions

Providers appear to be incurring losses on day and employment programs. These losses may be due to increased transportation costs. Residential services operated at a slim positive margin in 2003 and 2006, and a slim negative margin in 2004, 2005 and 2007. CSLA services were generally profitable. Even in services in which the median margin is positive there are still a substantial number of providers with negative margins, and conversely for services in which the median margin is negative.

C:\myfiles\csrrc_fy2008\costreports\Cost_report_2007.doc